

ORDINANCE NO. 1548

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS AMENDING THE CITY OF BAY CITY CODE OF ORDINANCES CHAPTER 74 PEDDLERS AND SOLICITORS BY AMENDING SECTION 74-33, TITLED REQUIRED; AMENDING SECTION 74-39 TITLED FEE AND TERM; PROVIDING FOR A CUMULATIVE & CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Section 2.02 of the City's Charter permits the City to pass and enforce ordinances, not inconsistent with the Charter and State law, upon any subject expedient for the life; general welfare; health, morals; comfort; safety; amusement; quiet; prosperity; and convenience of the City, its inhabitants, and property; and may provide suitable penalties for the violations of any ordinance;

WHEREAS, Chapter 74 of the City's Municipal Code of Ordinances regulates peddlers and solicitors within the City; and

WHEREAS, Chapter 6002 of the Texas Insurance Code (Fire Detection and Alarm Device Installation) prohibits a city from requiring a registered firm, license holder, or an employee of a license holder who holds a valid license under said chapter to obtain a permit from the city, pay a fee to the city, or post a bond; and

WHEREAS, Chapter 1702 of the Texas Occupations Code (Private Security Act) prohibits a city from requiring a registered firm, license holder, or an employee of a license holder who holds a valid license under said chapter to obtain a permit from the city, pay a fee to the city, or post a bond; and

WHEREAS, the City Council recognizes registered firms, license holders, and employees of license holders of licenses issued under Chapter 6002 of the Texas Insurance Code and Chapter 1702 of the Texas Occupations Code are exempt from the permit, permit fee, and bond requirements of Chapter 74 of the City's Municipal Code of Ordinances; and

WHEREAS, the City Council has determined that the safety, health and welfare of the citizens and general public require amendments to Chapter 74 of the Code of Ordinances to exempt registered firms, license holders, and employees of license holders of licenses issued under Chapter 6002 of the Texas Insurance Code and Chapter 1702 of the Texas Occupations Code from the permit, permit fee, and bond requirements of Chapter 74 of the City's Municipal Code of Ordinances; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS THAT:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

Section 2. Amendment to Municipal Code of Ordinances. The City of Bay City's Municipal Code of Ordinances, Chapter 74 (entitled "*Peddlers and Solicitors*"), Article II ("*Permit*"), Section 74-33 (b) (entitled "*Required*") is hereby amended by adding language that is underlined (underlined) and deleting language that is stricken (~~stricken~~) as follows:

- (b) This article shall not apply to any of the following:
 - (1) Commercial travelers;
 - (2) Sales or exhibits at fairs, rodeos, conventions or events sponsored by one or more city civic organization, school, church or the Chamber of Commerce; ~~or~~
 - (3) Charitable solicitation; ~~or~~
 - (4) A registered firm, license holder, or an employee of a license holder who holds a valid license issued under Chapter 6002 of the Texas Insurance Code (Fire Detection and Alarm Device Installation); or
 - (5) A registered firm, license holder, or an employee of a license holder who holds a valid license issued under Chapter 1702 of the Texas Occupations Code (Private Security Act);
- (c) All holders of state licenses exempt from this article shall wear and display their state issued identification cards at all times so as to be visible to any person who might be approached by the holder of said license.
- (~~e~~)(d) This article does apply to transient vendors, itinerant merchants and peddlers involved in interstate commerce.

The City of Bay City's Municipal Code of Ordinances, Chapter 74 (entitled "*Peddlers and Solicitors*"), Article II ("*Permit*"), Section 74-39 (a) (entitled "*Fee and term*") is hereby amended by adding language that is underlined (underlined) and deleting language that is stricken (~~stricken~~) as follows:

- (a) Any person who is required to obtain a permit by the provisions of this article may apply for either a 30-day permit or a 12-month permit. When a 30-day permit is issued to any such person, ~~the applicant~~ such person shall

pay to the city secretary a license fee of \$50.00 and an administrative fee of \$5.00. When a 12-month permit is issued to any such person, such person shall pay to the city secretary a permit fee of \$70.00 and an administrative fee of \$5.00. All such fees shall be used to defray part of the expense of administration and enforcement of this article.

Section 3. Payment of Fees. All persons, firms, or corporations applying for licenses or permits or receiving other City services described herein that require the payment of a fee incident to such application or service shall pay the fees as prescribed herein. It shall be a violation of this Ordinance to conduct any activity or commence any use or receive any service for which payment of a fee described herein is required until such fee has been paid (if required to be paid in advance) or to fail to pay such fee when properly billed.

Section 4. Cumulative. This Ordinance shall be cumulative of all fee provisions of the Code of Ordinances of the City of Bay City, Texas as to the fees set forth herein on the effective date of this Ordinance, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

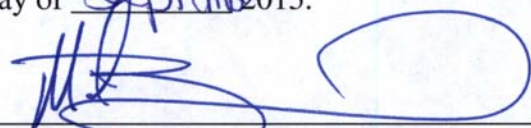
Section 5. Amending Fees. The City Council may, from time to time, by adopting new ordinances add to the fees set forth herein, and the fees now or hereafter set forth may be modified from time to time by order of the City Council.

Section 6. Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

Section 7. Remedies. All rights and remedies of the City are expressly saved as to any and all violations of the provisions of the Code of Ordinances in effect on the effective date of this Ordinance and modified by this Ordinance or any other ordinances in effect on the effective date of this Ordinance and modified by this Ordinance and requiring the payment of fees for licenses, permits, and other services provided by the City which have accrued on the effective date of this Ordinance; and any and all accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 8. Effective Date. This Ordinance shall be in full force and effect from and after its final passage and any publication required by law.

PASSED AND APPROVED ON this 10th day of September 2015.



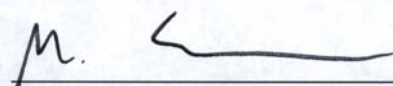
Mark Bricker, Mayor

ATTEST:



Rhonda Clegg, City Secretary

APPROVED AS TO FORM:



George E. Hyde, City Attorney
Denton Navarro Rocha Bernal Hyde & Zech, P.C.
M. SHARON KACHER



Council Member:

Voted Aye

Voted No

Absent

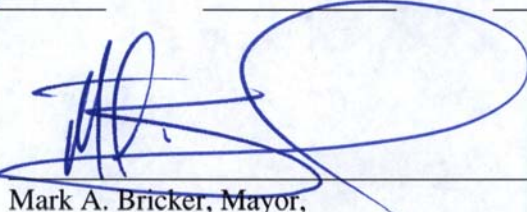
Julie L. Estlinbaum
Mayor Pro Tem

Bill Cornman

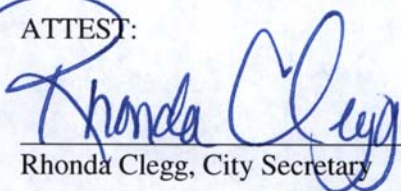
Chrystal Folse

Steven Johnson

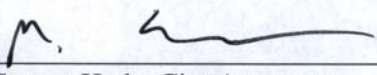
Carolyn Thames

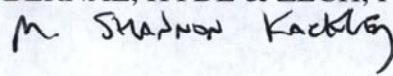

Mark A. Bricker, Mayor,
City of Bay City

ATTEST:


Rhonda Clegg, City Secretary

APPROVED AS TO FORM:


George Hyde, City Attorney
City of Bay City
DENTON, NAVARRO, ROCHA,
BERNAL, HYDE & ZECH, P.C.


M. Shannon Kackley

